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In Re Application of: Hiroshi NAGASAWA

Appln. No. 10/053,869

Date Filed: January 24, 2002

For: REACTION PROBE CHIP AND DETECTION SYSTEM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Art Unit: 1634

Examiner: B.J. Forman

Washington, D.C.

Atty.'s Docket: NAGASAWA=7

Date: March 10, 2003

Confirmation No. 5352

THE COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Sir:

Transmitted herewith is a [X] REPLY TO RESTRICTION REQUIREMENT the above-identified application.

[] Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted
[] Applicant claims small entity status. See 37 C.F.R. §1.27.
[] No fee is required.

The fee has been calculated as shown below:

	(Col. 1)	(Col. 2)	(Col. 3)	
	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS	
TOTAL	*	MINUS	** 20	0
INDEP.	*	MINUS	*** 3	0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				

ADDITIONAL FEE TOTAL

SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
x 9	\$		x 18	\$
x 42	\$		x 84	\$
+ 140	\$		+ 280	\$
ADDITIONAL FEE TOTAL			TOTAL	

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.

*** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

[XX] Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

[] It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

[] First - \$ 55.00
[] Second - \$ 205.00
[] Third - \$ 465.00
[] Fourth - \$ 725.00

Month After Time Period Set

[] Less fees (\$_____) already paid for ____ month(s) extension of time on _____.

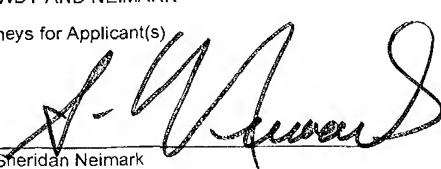
[] Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$.

[XX] The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

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ATTY.'S DOCKET: NAGASAWA=7

In re Application of:) Art Unit: 1634
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Hiroshi NAGASAWA) Examiner: B. J. Forman
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Appln. No.: 10/053,869) Washington, D.C.
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Date Filed: January 24, 2002) Confirmation No.: 5352
)
For: REACTION PROBE CHIP AND) March 10, 2003
DETECTION SYSTEM)

REPLY TO RESTRICTION REQUIREMENT

Honorable Commissioner for Patents
Washington, D.C. 20231

Sir:

Replying to the Office Action mailed February 10, 2003, entirely in the nature of a requirement for restriction, applicant hereby respectfully and provisionally elects, with traverse and without prejudice, Group I directed to a reaction probe chip, and presently comprising only claims 1-4.

The requirement is traversed on the basis of the second paragraph of MPEP Section 803 which **requires** search and examination of an entire application, even though the restriction requirement is 100% correct, if it would not constitute a serious burden to do so. Applicant believes that the subject matter of non-elected claim 5 is sufficiently similar to the elected subject matter that a search and

examination of the elected subject matter would provide a substantially complete search and examination of claim 5, and therefore any additional work which might be necessary for claim 5 would not constitute a "serious burden".

Moreover, the reason given for the restriction requirement relates to a product and a process of use. Group II, claim 5, is not directed to a process of use, but instead is directed to a reaction product detection system, an apparatus or device strikingly similar to that of Group I, and adapted for certain processing, i.e. having certain capabilities. Applicant believes that the situation is controlled by MPEP 806.05(c), part II, with Group I being the sub-combination and Group II being the combination. As the sub-combination of Group I is essential to the combination of Group II, there should be no restriction requirement.

Accordingly, applicant requests withdrawal of the requirement and examination of all the claims on the merits.

Applicant has claimed priority of the corresponding application filed in Japan, and a certified copy of same was filed in the present application on May 23, 2002. Accordingly, applicant respectfully requests the PTO to acknowledge receipt of applicant's papers filed under Section 119.

Applicant respectfully awaits the results of a first examination on the merits.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By



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